IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.3105 of 2004
Date of decision: September 7, 2006.

Karambir & Anr.

...**Petitioner(s)**

v.

U.H.B.V.N. & Ors.

...**Respondent(s)**

Present: Shri U.K. Agnihotri, Advocate for the petitioners.

Shri S.V. Rathee, Advocate for the respondents.

Surya Kant, J. (Oral)

In a suit for declaration and permanent injunction filed under Section 91 of the Code of Civil Procedure, an application under Order 7 Rule 11 CPC moved on behalf of the defendants was accepted by the learned Civil Judge (Senior Division), Sonepat, who, vide his order dated 2nd April, 2004 rejected the plaint on the ground that no cause of action had accrued in favour of the plaintiffs to file the suit.

Aggrieved at the aforesaid order, this revision petition has been filed.

It may be stated here that the afore-mentioned suit was filed against the authorities of the Uttar Haryana Bijli Vitran Nigam alleging inter-alia that high-tension wires were being laid in such a manner that the same shall pass over the houses of the villagers and, thus, the safety of the villagers and of their properties were in danger.

On notice of motion, the respondents put in appearance.

After hearing Learned Counsel for the parties, this Court passed a detailed order dated August 5, 2004, which reads as follows:-

> "Counsel for the petitioners, at this stage, states that a Local Commissioner be appointed to verify the aforementioned facts. In order to resolve the above factual controversy, whether the wires are passing over the house of the villers or not, I appoint Ms. Anju Sharma, Advocate as Local Commissioner to find out whether high tension wires are going over the house of various inhabitants of the village Jasrana or not. The Local Commissioner shall be paid a sum of Rs.10,000/- as a fee by the petitioners which will include travelling expenses. The local Commissioner shall visit the village in question on 14.8.2004. She shall be paid the emoluments fixed by this Court on or before 12.8.2004. J.E. Ranbir Singh Malik shall receive the Local Commissioner at Canal Guest House, Sonepat at 11 a.m. on 14.8.2004 from where he will accompany her. The report of the Local Commissioner shall be submitted within a period of two weeks thereafter."

In compliance to the above mentioned order, the Local Commissioner did visit the spot on 14.8.2004 and submitted her report on that very day, which reads as follows:-

> "We inspected the *phirni* of the village from one transformer to another transformer. The pillars were installed in *phirni* and wires were going amidst the *phirni* of the village. However, at one place the wires were passing through the branches of two

three trees standing on the phirni. During my inspection, I repeatedly asked the petitioner to point out any construction or boundary wall below the high tension wires, but he was unable to do so. His grouse was that a transformer which was near the houses of Jai Narain and Sandeep is installed in the *phirni*, which should be removed. Sandeep, Jai Narain and other villagers have no objection to it.

In my opinion, which I gathered from the spot inspection, there is not an iota of construction or boundary wall which can be said to be below the wires."

As is apparent from the report of the Local Commissioner, no high-tension wire is passing through the houses of the villagers and the stand taken by the respondents that the wires are being installed on the *phirni* of the village, has been found factually correct.

One of the petitioners has filed his objections to the report of the Local Commissioner by way of his affidavit dated 9th October, 2004.

After going through the objections, it is apparent that the petitioners also want to change their stand. Though they are admitting that the high-tension wires are being installed on the *phirni* of the village but according to them, the said *phirni* is just six *karams* wide and on both sides of the same, there are houses of the villagers.

Even if the objections filed by the petitioners are taken on their face value, at the best, it makes out a case of individual hardship and not a suffering of the kind to be shared by the entire village. In this view of the matter, no exception can be taken to the impugned order vide which the learned trial court has held that 'no cause of action' to file a suit under

section 91 CPC has accrued.

Consequently, I do not find any merit in this revision petition, which is accordingly dismissed.

It is, however, clarified that if any individual inhabitant of the village has any grievance against the action of the respondents, he shall be at liberty to seek redressal thereof in accordance with law.

September 7, 2006. [**Surya Kant**]
kadyan **Judge**